

**CITY OF WEST DES MOINES
BOARD OF ADJUSTMENT COMMUNICATION**

Meeting Date: May 7, 2014

Item: Bar Louie, 7105 Mills Civic Parkway, Suite 150 – Approval of a 7,800sf Bar/Restaurant – PC-002159-2014 – BL Restaurant Operations, LLC

Requested Action: Approval of a Permitted Conditional Use Permit

Case Advisor: Lynne Tweed

Applicant's Request: The applicant, BL Restaurant Operations, LLC., in conjunction with the property owner, GGP Jordan Creek LLC., are requesting approval of a permitted Conditional Use Permit to allow operation of a 7,800sf Drinking Establishment (SIC 5813) within a portion of the multi-tenant building located north of Costco within the Village Area of the Jordan Creek Town Center. The applicant is proposing a 6,000sf establishment with a 1,000sf outdoor patio on the east and a second 800sf patio area on the north. The applicant is unsure at this time whether or not they will implement the north patio; however, they are seeking approval of their potential maximum square footage in order to alleviate going through the Permitted Conditional Use process a second time. Per the Jordan Creek Town Center PUD, Restaurants (SIC 5812: no drive-thrus) are a Permitted (P) use, while Drinking Establishments (SIC 5813) are a Permitted Conditional (Pc) use.

Drinking Establishments are defined as those eating and drinking places in which 50% or greater of the revenue is from the sale of alcohol; while a restaurant is 50% or more from the sale of food. Representatives from Bar Louie's have indicated to staff that their operations within lifestyle centers such as the Jordan Creek Town Center typically operate as restaurants in that more sales are from food than alcohol; however, they can sometimes be very close to the 50% threshold. Because of this, staff advised the applicant that it would be in their best interest to seek approval for a Drinking Establishment which would give them the flexibility to operate as either a restaurant or bar.

History: The Jordan Creek Town Center PUD was approved by the City Council in December, 1996. The PUD has been amended seven times since with the most recent amendment occurring in 2013 to modify setbacks to accommodate a hotel to be built adjacent to S68th Street. The overall Site Plan was approved by the Council in April of 2002.

City Council Subcommittee: This item was presented to the Development & Planning City Council Subcommittee at their April 10, 2014 meeting. Permitted Conditional Use applications generally are presented to the subcommittee for information only; no recommendation or communication from the subcommittee is needed.

Staff Review and Comment: There are no outstanding issues.

Permitted Conditional Use Permit Findings: The following findings have been made on the proposed permitted conditional use:

1. The proposed development and use is consistent with the West Des Moines Comprehensive Plan in that the project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan.
2. The proposed development and use does assure compatibility of property uses within the zone and general area in that this project was reviewed by various City Departments for compliance with the Zoning Ordinance.
3. All applicable standards and conditions have been imposed which protects the public health, safety and welfare in that this project was reviewed by various City Departments and public agencies for compliance with the various state and local regulations. Based upon that review a finding is made that the project has been adequately conditioned to protect the health, welfare, and safety of the community.

4. There is adequate on-site and off-site public infrastructure to support the proposed development in that this project was reviewed by various public agencies and City Departments and public utilities to ensure that either the petitioner will construct or the project has been conditioned to construct adequate public infrastructure to serve the development.
5. The proposed development and use have met the requirements contained in the City Code in that this project was reviewed by various City Departments and public agencies and the project has complied with or has been conditioned to comply with all City Code requirements.
6. The proposed development and use is in keeping with the scale and nature of the surrounding neighborhood in that the proposed project is consistent with the Zoning regulations and the Comprehensive Plan which designates this site as suitable for development such as that proposed by this project.

Noticing Information: On April 18, 2014, notice of the May 7, 2014, Board of Adjustment Public Hearing on this project was published in the *Des Moines Register*. Notice of this public hearing also was mailed to surrounding property owners within 370 feet of the subject property on April 16, 2014.

Staff Recommendations and Conditions of Approval for the Permitted Conditional Use Permit: Based upon the review of the proposal, a finding of consistency with the goals and policies of the Comprehensive Plan, and compliance with the findings necessary for approval, staff recommends the Board of Adjustment adopt a resolution for approval of the Permitted Conditional Use Permit to allow a 7,800sf Drinking Establishment (SIC 5813) at 7105 Mills Civic Parkway, Suite 150, subject to meeting all City Code requirements and regulations.

Applicant: BL Restaurant Operations, LLC
4550 Beltway Dr.
Addison, TX 75001
Attn: Legal Department, Kerry Paredes
kparedesj@blro.net

Property Owner: GGP Jordan Creek LLC
c/o Village at Jordan Creek
101 Jordan Creek Parkway
West Des Moines, IA 50266
Attn: Randy Tennison
Randy.tennison@generalgrowth.com

Applicant's Representative: Shuttleworth & Ingersoll
115 3rd Street SE, Suite 500
Cedar Rapids, IA 52401
Attn: Jace Bisgard
jtb@shuttleworthlaw.com

SITE DETAILS

Comprehensive Plan Land Use: Town Center Commercial (TCC)
Existing Zoning: Jordan Creek Town Center PUD
Existing Land Use: Jordan Creek Town Center

Surrounding Land Uses:

North **Existing Land Use:** Greenbelt & Reed's Crossing Development
Existing Zoning: Reed's Crossing PUD
Comprehensive Plan Designation: Open Space & Medium-Density Residential

South **Existing Land Use:** Wells Fargo Home Mortgage
Existing Zoning: Wells Fargo Specific Plan (PUD)
Comprehensive Plan Designation: Open Space

East **Existing Land Use:** Commercial, Office & Multi-family Residential
Existing Zoning: Paradise Pointe, Jordan Creek Crossing & Broadmoor Apartments
Specific Plans
Comprehensive Plan Designation: Regional Commercial, Office & High-Density Residential

West **Existing Land Use:** Plaza at Jordan Creek and Bridgewood developments & Undeveloped
Existing Zoning: Plaza at Jordan Creek and Bridgewood & Jordan West Specific Plans
Comprehensive Plan Designation: Support Office, Neighborhood Commercial, & Office

Attachments:

Attachment A - Permitted Conditional Use Resolution
Attachment B - Location Map

Prepared by: L.Twedt Development Services PO Box 65320 West Des Moines IA 50265-0320 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines PO Box 65320 West Des Moines IA 50265-0320

RESOLUTION

A RESOLUTION OF THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES, APPROVING A PERMITTED CONDITIONAL USE PERMIT (PC-002159-2014) TO ALLOW SIC 5813: DRINKING ESTABLISHMENT AT 7105 MILLS CIVIC PARKWAY, SUITE 150

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, BL Restaurant Operations, LLC, in conjunction with the property owner, GGP Jordan Creek, LLC., have requested approval of a Permitted Conditional Use permit to allow a maximum 7,800sf Drinking Establishment (SIC 5813) to operate at 7105 Mills Civic Parkway, Suite 150, and legally described as follows:

Legal Description of Property

**Lot 7, Jordan Creek Town Center Plat 1, Replat 1, an official plat within
the City of West Des Moines, Polk County, Iowa.**

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, on May 7, 2014, the Board of Adjustment held a duly-noticed public hearing to consider the application for Permitted Conditional Use Permit (PC-002159-2014);

NOW, THEREFORE, THE BOARD OF ADJUSTMENT OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The findings, for approval, in the staff report, dated May 7, 2014, or as amended orally at the Board of Adjustment hearing of May 7, 2014, are adopted.

SECTION 2. PERMITTED CONDITIONAL USE PERMIT (PC-002159-2014) to allow a maximum 7,800sf Drinking Establishment (SIC 5813) to operate at 7105 Mills Civic Parkway, Suite 150 is approved, subject to compliance with all the conditions in the staff report, dated May 7, 2014, including conditions added at the Hearing, and attached hereto as Exhibit "A", if any. Violation of any such conditions shall be grounds for revocation of the entitlement, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on May 7, 2014.

Jenny Drake, Board of Adjustment

ATTEST:

Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Board of Adjustment for the City of West Des Moines, Iowa, at a regular meeting held on May 7, 2014, by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:

Recording Secretary

LOCATION MAP

